

E-FILED on 05/20/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAISY D. QUESADA,

Plaintiff,

v.

COMMUNITY LENDING, INC. DBA JMAC
LENDING, EMC MORTGAGE
CORPORATION, QUALITY LOAN
SERVICE, MORTGAGE ELECTRONIC
REGISTRATION SYSTEM, INC., and all
persons unknown, claiming, any legal or
equitable right, title, estate, lien, or interest in
the property described in this complaint
adverse to Plaintiff's title thereto, and DOES 1
through 30, inclusive,

Defendants.

No. C-08-05790 RMW

ORDER REGARDING MOTION TO
DISMISS


[Re Docket No. 12]

On January 7, 2009, defendants EMC Mortgage Corporation ("EMC") and Mortgage Electronic Registration Systems, Inc. ("MERS") removed this case from Santa Clara County Superior Court. On January 9, 2009, EMC and MERS moved to dismiss the complaint for failure to state a claim. Plaintiff then filed a first amended complaint on February 3, 2009, which eliminated the claims for relief arising under federal law. *See* Opp. to Mot. to Dismiss 2. Plaintiff apparently anticipates moving to remand. *Id.*

1 The amended complaint no longer seeks relief under federal law. In addition, the deed of
2 trust included as Exhibit 1 to defendants' request for judicial notice (Docket No. 12) lists "ComUnity
3 Lending Inc." (presumably the same entity as defendant Community Lending, Inc.) as a California
4 corporation. Because the complaint on its face does not appear to provide a basis for exercising
5 federal-question or diversity jurisdiction, the court requests additional briefing from defendants, not
6 to exceed five pages, setting forth any basis for continued federal jurisdiction in this case.

7 Defendants shall file their brief by Friday, May 29, 2009. The hearing on the pending
8 motion to dismiss is continued to Friday, June 12, 2009.

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11 DATED: 05/20/09



RONALD M. WHYTE
United States District Judge

JAS
Chambers of Judge Whyte